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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/785,209

02/24/2004

Ronald P. Hohmann JR.

PHO-236 CIP

8805

48745

7590

10/06/2008

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EXAMINER

FIGUEROA, ADRIANA

ART UNIT

PAPER NUMBER

3633

MAIL DATE

DELIVERY MODE

10/06/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/785,209	Applicant(s) HOHMANN, RONALD P.	
	Examiner Adriana Figueroa	Art Unit 3633	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 6 and 10 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 11-19 and 21 is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-9 and 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>NPL</u> . |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-8 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hohmann (US 4,598,518) in view of Stephens (US 1,854,633).

Regarding claim 1, Hohmann discloses a surface-mounted anchoring system for use in the construction of a wall having an inner wythe (19) and an outer wythe (20), said outer wythe formed from a plurality of successive courses (22) with a bed joint between each two adjacent courses, said inner wythe and said outer wythe in a spaced apart relationship the one with the other forming a cavity therebetween, said inner wythe having an exterior layer being insulation (17), (Figures 1, 2), said surface-mounted anchoring system comprising: an anchoring system having a wall anchor (12) constructed from a plate-like body (24) having two major faces being the mounting surface (i) and the outer surface (o), said wall anchor, in turn, comprising; a pair of legs (33), each extending from said mounting surface of said plate-like body from an inboard location thereof with the longitudinal axis of each of said legs being substantially normal to said mounting surface (i), (annotated Figure 3), said legs adapted for insertion at a predetermined insertion point into said exterior layer of said inner wythe,

Art Unit: 3633

a covering portion (c) formed at said mounting surface (i) of said plate-like body, said covering portion adapted to preclude penetration of air, moisture and water vapor into said exterior layer, (annotated Figure 3);

an apertured receptor portion (28) adjacent said outer surface (o) of said plate-like body (24), (annotated Figure 3), said aperture receptor portion adapted to limit displacement of said outer wythe toward and away from said inner wythe;

a veneer tie (18) threadedly disposed through said apertured receptor portion (28) , (annotated Figure 3) of said wall anchor and adapted for embedment in said bed joint of said outer wythe to prevent disengagement from said anchoring system.

Hohmann does not disclose the legs having a channel along said axis adapted for sheathing mounting hardware, or at least one strengthening rib impressed in said plate-like body parallel to said apertured receptor portion. However, Stephens teaches an anchor having at least one strengthening rib (11) impressed in a plate-like body (5) parallel to an apertured receptor portion (6), (Figure 1). Therefore, it would have been obvious to a person having ordinary skill in the arts at the time of the applicant's invention to modify the anchor of Hohmann to include strengthening ribs parallel to the apertured receptor body and in each of the legs as taught by Stephens, as it is well known in the art to add ribs to sheet metal members, as they provide reinforcement by adding strength and rigidity to the sheet metal.

The modified wall anchor of Hohmann and Stephens would have the strengthening rib in each of the legs forming a channel that would allow for sheathing mounting hardware.

Regarding claim 2, Hohmann modified by Stephens discloses as discussed above, but does not disclose said wall anchor strengthened by at least one strengthening rib is constructed to meet a 100 lbf tension and compression rating. However, it would have been an obvious matter of engineering design choice to modify the anchoring system of Hohmann and Stephens to have the strengthening rib constructed to meet a 100 lbf tension and compression rating since the anchoring system would obviously be required to have a high strength, as it is used to hold wall members together.

Regarding claim 3, Hohmann modified by Stephens discloses the claimed invention. Hohmann further teaches a surface-mounted anchoring system wherein said exterior layer is insulation (17), each said insertion point in said insulation adapted to accommodate one of said legs and the associated mounting hardware, (Figures 1, 2).

Regarding claim 4, the modified anchoring system of Hohmann and Stephens would have said strengthening rib impressed to depend from said mounting surface (i) and adapted, upon surface mounting of said wall anchor, to be pressed into said insulation of said inner wythe, (Figure 2).

Regarding claim 5, Hohmann modified by Stephens discloses the claimed invention, Hohmann further teaches said inner wythe (19) is a dry-wall construct (Column 2, Lines 19-20), and wherein each of said pair of legs (33) extending from said mounting surface (i) of said plate-like body (24), terminate in at least two points (39, 41), (annotated Figure 3) capable of adapting said anchoring system for minimal thermal transfer between said inner wythe and said anchoring system.

Art Unit: 3633

Regarding claim 8, Hohmann modified by Stephens discloses the claimed invention; Hohmann further teaches the anchoring system having sealant means for further sealing between said plate-like body and said exterior layer (Figure 2), (Column 3, Lines 51-57).

Regarding claim 20, Hohmann modified by Stephens discloses the claimed invention; Hohmann further teaches a reinforcement wire (18) disposed in said bed joint (Figures 2, 3).

Regarding claim 7, Hohmann modified by Stephens discloses the claimed invention; Hohmann further teaches an attachment portion (a) for threading through said apertured receptors (28); an insertion portion (b) contiguous with and opposite said attachment portion, said insertion portion being swaged for interconnection with said reinforcement wire, (annotated Figure 3);

whereby, upon installation of said anchoring system with an interconnected reinforcing wire in said outer wythe, said system is capable of providing a high degree of seismic protection.



2. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hohmann (US 4,598,518) in view of Stephens (US 1,854,633) and further in view of Liu (US 6,098,364). Hohmann modified by Stephens discloses the claimed invention, but does not disclose each of said pair of legs is formed from a hollow tubular member extending with the longitudinal axis thereof substantially normal to said mounting surface of said plate-like body and adapted to sheathe said mounting hardware inserted therethrough.

Art Unit: 3633

However, Liu discloses an anchoring system having legs (210) formed from a hollow tubular member extending with the longitudinal axis thereof substantially normal to said mounting surface of said plate-like body, (Figure 5), (Column 2, Lines 45-46). Therefore, it would have been obvious to a person having ordinary skill in the arts at the time of the applicant's invention to modify the anchoring system of Hohmann, and Stephens to have the legs formed from a hollow tubular member as taught by Liu in order to enable the mounting hardware to be held by the wall anchor and securely engage a wall construction.

Allowable Subject Matter

3. Claims 11-19, 21 are allowed.

Response to Arguments

4. Applicant's arguments filed 6/16/2008 have been fully considered but they are not persuasive.

In response to applicant's argument that Hohmann '518 legs are not inboard. Examiner wants to note that the term "inboard" indicates "inside" according to one of the definitions in the internet site www.boatlodge.com/nautical2.htm. Hohmann's '518 legs are extending from the inside surface of the body. Therefore the prior art of Hohmann '518 meets the claimed limitation of "a pair of legs, each extending from said mounting surface of said plate like body from an inboard location".

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In the instant case, applicant argues that Hohmann '518 does not disclose "a channel along said axis". Examiner indicated that Hohmann '518 does not disclose a channel along the axis. However, Examiner wants to note that Stephens was used for its teaching of strengthening ribs to modify the legs of Hohmann to include strengthening ribs to provide reinforcement by adding strength and rigidity to the sheet material. Therefore, the modified wall anchor of Hohmann and Stephens would have a strengthening rib in each leg creating a channel that is capable of allowing for sheathing mounting hardware.

In response to applicant's argument that Hohmann '518 does not teach "a covering portion". Examiner asserts that the portion (c) indicated in the annotated Figure 3 would create a cover portion between the leg and the inner surface of the body.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the

Art Unit: 3633

shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Adriana Figueroa whose telephone number is 571-272-8281. The examiner can normally be reached on Monday-Friday 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on 571-272-6843. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/A. F./

Examiner, Art Unit 3633

09/26/2008

Application/Control Number: 10/785,209

Page 10

Art Unit: 3633

/Brian E. Glessner/

Supervisory Patent Examiner, Art Unit 3633